

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date: JUN 28 1988

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The purposes stated in your Articles of Organization are to provide assistance to area residents in assessing services, products and educational opportunities; and to provide a referral service to area residents in starting and operating home based businesses.

The information submitted indicates that your activities will consist of providing the local community with a referral service for obtaining consumer services such as maid services, day care services, painting services, etc., and the organization also provides assistance to individuals in the community who are either operating a home based business or are in the process of starting a home based business.

The referral and information service activities consist of self employed persons or home based businesses or individuals sending their business cards, flyers, or any other information regarding their business or service to the organization for their file. The organization gives out their numbers and the clients make their own arrangements.

The assistance provided to individuals in the community who are operating or starting a home based business are Information Nights, Support Groups for individuals wishing to start their own business, newsletters, booklets and bulletins from the University of [REDACTED], Individual Counseling, Mini-trade shows, Speakers from the [REDACTED].

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Code, may qualify under this section.

Revenue Ruling 80-287, 1980-2 C.B. 185 states, in part, that a nonprofit lawyer referral service arranges at the request of any member of the public an initial half-hour appointment for a nominal charge with a lawyer whose name is on an approved list maintained by the organization. Any further contact between the lawyer and the client is arranged without the involvement of the organization. The referral service is not exempt under section 501(c)(3) of the Code, because the lawyer referral service did not confer a charitable benefit on the community.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states, in part, that an organization may not be exempt if it is operated for the benefit of private individuals. Your referral and information service activities and assistance activities serve a private interest to self employed persons or home based businesses rather than a public interest.

Section 1.501(c)(3)-(d)(2) of the Regulations provides what the term "charitable" includes the conducting of a referral service is not a charitable activity and the conducting of a referral service for self employed individuals or home based individuals is not charitable because self employed individuals and home based businesses are not considered a charitable class of individuals.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, what the term "educational" means. The information Nights, Support Groups for individuals wishing to start their own business, newsletters, booklets and bulletins, Individual Counseling, Mini-trade shows, and speakers for individuals in the community who are operating or starting a home based business are conducted for the private benefit of self employed individuals and home based business and are not to instruct the public on subject useful to the individual and beneficial to the community.

The referral and information services and assistance activities for the benefit of self employed individuals and home based businesses are not considered charitable or educational under I.R.C. 501(c)(3). As stated in the Better Business Bureau v. U.S. court case, the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3).

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

A solid black rectangular box used to redact the signature of the District Director.

District Director

Enclosure: Publication 892